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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,454	01/23/2004	Chung-Cheng Wu	CHU 241	5482
7590 RABIN & BERDO, P.C. Suite 500 1101 14 Street N.W. Washington, DC 20005		12/13/2007	EXAMINER WILSON, KAITLIN A	
			ART UNIT 3636	PAPER NUMBER
			MAIL DATE 12/13/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/762,454

**Applicant(s)**

WU, CHUNG-CHENG

**Examiner**

Kaitlin A. Wilson

**Art Unit**

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-2 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,776,177 B2.

Although the conflicting claims are not identical, they are not patentably distinct from each other because Both shelters include a main rod (shaft) with a runner stopper (stopper) on said main rod (shaft) with a finishing ring (fixing ring), a runner, and a sliding ring (running ring) on the main rod (shaft). The sliding ring (running ring) is below said runner, pulling ropes connecting to said runner and said sliding ring (running ring) stretch from the top of the upper shaft and are connected to an opening ring and closing ring. The claims also both include a protective cover with a center hole with tip overall (tip cover) on each supporting rib. The structures also include stickers (viscous fastening parts) that correspond to each of the ribs. The handles as well as said stretchers and ribs are also considered to be identical structures.

3. Wu (US Patent 6,776,177 B2) fails to disclose that the main rod is composed of an upper and lower shaft with a cap and an indentation. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include these elements since it was known in the art that making a shaft of two piece instead of one with an indentation for the stopper and a top cap is well known in the art for umbrella and tent shafts.

***Drawings***

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because within Figures 2 and 4A, reference character "11c1" has been used to designate both the opening ring and the closing ring. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

5. Claim1 is objected to because of the following informalities: page 7, lines 10-11, "said protective cover has the same amount of tip cover" is considered to be awkward. The examiner recommends that these lines be change to read: each rib includes a tip portion; said protective cover extends to the ends of the ribs to cover the tip portion.

Appropriate correction is required.

6. Claim1 is objected to because of the following informalities: page 7, line 18, "and the brim of said runner". Within the claims "the brim" has not been referred to previously. For the purpose of examination the examiner presumes "the brim" should read "a brim".

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

9. Claim 1 recites the limitation "a plurality number" within line 15. It is unclear what is meant by "a plurality number". Additionally, Claim 1 recites the limitation "said stretchers" within line 15 and "the brim" within line 18. There is insufficient antecedent basis for these limitations in the claim.

10. Claim 3 recites the limitation "a connector is on the proper location of said rib to make said rib fold outward". It is unclear what "the proper location" refers to.

***Allowable Subject Matter***

11. Claims 1-4 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and upon the filing of a proper terminal disclaimer.

12. The following is an examiner's statement of reasons for allowance: The specific limitations of "a runner and a running ring are on said upper shaft with said running ring being below said runner, two ropes connecting to said runner and said running ring respectively stretch out from a cap and connected to an opening ring and a closing ring respectively" in the combination as claimed in claim 1 are not anticipated or made

obvious by the prior art of record in the examiner's opinion. For example, US Patent 7,185,66 B2 teaches a collapsible tent that includes two pull ropes (34), but fails to disclose the shaft portion and the running ring; US Patent 5,871,026 teaches an umbrella shaped tent with a single rope (17) that is used to open the tent, but fails to disclose the two pull ropes connected to the two rings; US Patent Application 2004/0163696 A1 teaches a rope (40) with two ends that connect through rings, but fails to disclose that they are all disposed on a central shaft; US Patent Application 2004/0159346 A1 teaches an opening ring (118) with a pull rope (117), but fails to disclose a closing ring and that there is a central support structure. However the prior art of record fails to teach or suggest the specific limitations of "a runner and a running ring are on said upper shaft with said running ring being below said runner, two ropes connecting to said runner and said running ring respectively stretch out from a cap and connected to an opening ring and a closing ring respectively" in the combination as claimed in Claim 1.

13. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).


14. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kaitlin A. Wilson whose telephone number is (571)-270-3206. The examiner can normally be reached on Monday - Friday (7:00am-4:30pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on (571)272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kaitlin A. Wilson

  
DAVID DUNN  
SUPERVISORY PATENT EXAMINER